

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ZUBAIR MEHMUD BUTT
2133 Stockton Street, Apt C207
San Francisco, CA 94133

Registered Nurse License No. **566439**

Respondent

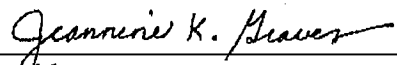
Case No. 2011-527

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **June 17, 2011.**

IT IS SO ORDERED **May 19, 2011.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 MICHAEL B. FRANKLIN
Deputy Attorney General
4 State Bar No. 136524
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5622
6 Facsimile: (415) 703-5480

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2011-527

12 **ZUBAIR MEHMUD BUTT**
13 **2133 Stockton Street, Apt C-207**
San Francisco, CA 94133
14 **Registered Nurse License No. RN 566439**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
18 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
19 which will be submitted to the Board for approval and adoption as the final disposition of the
20 Accusation.

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
23 Registered Nursing. She brought this action solely in her official capacity and is represented in
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Michael B.
25 Franklin, Deputy Attorney General.

26 2. Respondent Zubair Mehmud Butt (Respondent) is represented in this proceeding by
27 attorney Mario L. Andrews, whose address is: 4100 Redwood Road, Suite 313, Oakland, CA
28 94619.

3. On or about April 25, 2000, the Board of Registered Nursing issued Registered Nurse License No. RN 566439 to Zubair Mehmud Butt (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-527 and will expire on April 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2011-527 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 14, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-527 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-527. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2011-527.

1 9. Respondent agrees that his Registered Nurse License is subject to discipline and he
2 agrees to be bound by the Board of Registered Nursing (Board)'s probationary terms as set forth
3 in the Disciplinary Order below.

4 **RESERVATION**

5 10. The admissions made by Respondent herein are only for the purposes of this
6 proceeding, or any other proceedings in which the Board of Registered Nursing or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 **CONTINGENCY**

10 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
11 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
12 Registered Nursing may communicate directly with the Board regarding this stipulation and
13 settlement, without notice to or participation by Respondent or his counsel. By signing the
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
21 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
22 effect as the originals.

23 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
24 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
25 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
26 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
27 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
28 writing executed by an authorized representative of each of the parties.

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Registered Nurse License No. RN 566439 issued to
6 Respondent Zubair Mehmud Butt (Respondent) is revoked. However, the revocation is stayed
7 and Respondent is placed on probation for three (3) years on the following terms and conditions.

8 **Severability Clause.** Each condition of probation contained herein is a separate and
9 distinct condition. If any condition of this Order, or any application thereof, is declared
10 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
11 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
12 and enforceable to the fullest extent permitted by law.

13 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A
14 full and detailed account of any and all violations of law shall be reported by Respondent to the
15 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
16 compliance with this condition, Respondent shall submit completed fingerprint forms and
17 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
18 as part of the licensure application process.

19 **Criminal Court Orders:** If Respondent is under criminal court orders, including
20 probation or parole, and the order is violated, this shall be deemed a violation of these probation
21 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

22 2. **Comply with the Board's Probation Program.** Respondent shall fully
23 comply with the conditions of the Probation Program established by the Board and cooperate with
24 representatives of the Board in its monitoring and investigation of the Respondent's compliance
25 with the Board's Probation Program. Respondent shall inform the Board in writing within no
26 more than 15 days of any address change and shall at all times maintain an active, current license
27 status with the Board, including during any period of suspension.

28 Upon successful completion of probation, Respondent's license shall be fully restored.

1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated representatives.

3 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
4 or practice as a registered nurse outside of California shall not apply toward a reduction of this
5 probation time period. Respondent's probation is tolled, if and when he resides outside of
6 California. Respondent must provide written notice to the Board within 15 days of any change of
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or
8 returning to practice in this state.

9 Respondent shall provide a list of all states and territories where he has ever been licensed
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
11 information regarding the status of each license and any changes in such license status during the
12 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
13 license during the term of probation.

14 5. **Submit Written Reports.** Respondent, during the period of probation,
15 shall submit or cause to be submitted such written reports/declarations and verification of actions
16 under penalty of perjury, as required by the Board. These reports/declarations shall contain
17 statements relative to Respondent's compliance with all the conditions of the Board's Probation
18 Program. Respondent shall immediately execute all release of information forms as may be
19 required by the Board or its representatives.

20 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
21 state and territory in which he has a registered nurse license.

22 6. **Function as a Registered Nurse.** Respondent, during the period of
23 probation, shall engage in the practice of registered nursing in California for a minimum of 24
24 hours per week for 6 consecutive months or as determined by the Board.

25 For purposes of compliance with the section, "engage in the practice of registered nursing"
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
27 non-direct patient care position that requires licensure as a registered nurse.

28 The Board may require that advanced practice nurses engage in advanced practice nursing

1 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

2 If Respondent has not complied with this condition during the probationary term, and
3 Respondent has presented sufficient documentation of his good faith efforts to comply with this
4 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
5 extension of Respondent's probation period up to one year without further hearing in order to
6 comply with this condition. During the one year extension, all original conditions of probation
7 shall apply.

8 **7. Employment Approval and Reporting Requirements.** Respondent shall
9 obtain prior approval from the Board before commencing or continuing any employment, paid or
10 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
11 performance evaluations and other employment related reports as a registered nurse upon request
12 of the Board.

13 Respondent shall provide a copy of this Decision to his employer and immediate
14 supervisors prior to commencement of any nursing or other health care related employment.

15 In addition to the above, Respondent shall notify the Board in writing within seventy-two
16 (72) hours after he obtains any nursing or other health care related employment. Respondent
17 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
18 regardless of cause, from any nursing, or other health care related employment with a full
19 explanation of the circumstances surrounding the termination or separation.

20 **8. Supervision.** Respondent shall obtain prior approval from the Board
21 regarding Respondent's level of supervision and/or collaboration before commencing or
22 continuing any employment as a registered nurse, or education and training that includes patient
23 care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
27 approved.
28

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. Employment Limitations. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

1 Respondent shall work only on a regularly assigned, identified and predetermined
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
4 request documentation to determine whether there should be restrictions on the hours of work.

5 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
6 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
7 than six months prior to the end of his probationary term.

8 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
9 Respondent shall submit to the Board the original transcripts or certificates of completion for the
10 above required course(s). The Board shall return the original documents to Respondent after
11 photocopying them for its records.

12 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
13 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
14 amount of \$1,332.50. Respondent shall be permitted to pay these costs in a payment plan
15 approved by the Board, with payments to be completed no later than three months prior to the end
16 of the probation term.

17 If Respondent has not complied with this condition during the probationary term, and
18 Respondent has presented sufficient documentation of his good faith efforts to comply with this
19 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
20 extension of Respondent's probation period up to one year without further hearing in order to
21 comply with this condition. During the one year extension, all original conditions of probation
22 will apply.

23 12. **Violation of Probation.** If Respondent violates the conditions of his
24 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
25 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

26 If during the period of probation, an accusation or petition to revoke probation has been
27 filed against Respondent's license or the Attorney General's Office has been requested to prepare
28 an accusation or petition to revoke probation against Respondent's license, the probationary

1 period shall automatically be extended and shall not expire until the accusation or petition has
2 been acted upon by the Board.

3 13. **License Surrender.** During Respondent's term of probation, if he ceases
4 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
5 probation, Respondent may surrender his license to the Board. The Board reserves the right to
6 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
7 take any other action deemed appropriate and reasonable under the circumstances, without further
8 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
9 longer be subject to the conditions of probation.

10 Surrender of Respondent's license shall be considered a disciplinary action and shall
11 become a part of Respondent's license history with the Board. A registered nurse whose license
12 has been surrendered may petition the Board for reinstatement no sooner than the following
13 minimum periods from the effective date of the disciplinary decision:

14 (1) Two years for reinstatement of a license that was surrendered for any reason other
15 than a mental or physical illness; or

16 (2) One year for a license surrendered for a mental or physical illness.

17 14. **Mental Health Examination.** Respondent shall, within 45 days of the
18 effective date of this Decision, have a mental health examination including psychological testing
19 as appropriate to determine his capability to perform the duties of a registered nurse. The
20 examination will be performed by a psychiatrist, psychologist or other licensed mental health
21 practitioner approved by the Board. The examining mental health practitioner will submit a
22 written report of that assessment and recommendations to the Board. All costs are the
23 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
24 result of the mental health examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed mental health care practitioner making this determination shall immediately notify the
27 Board and Respondent by telephone, and the Board shall request that the Attorney General's
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of
2 suspension, Respondent shall not engage in any practice for which a license issued by the Board
3 is required, until the Board has notified Respondent that a mental health determination permits
4 Respondent to resume practice. This period of suspension will not apply to the reduction of this
5 probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within the 45-day
7 requirement, Respondent shall immediately cease practice and shall not resume practice until
8 notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 **15. Therapy or Counseling Program.** Respondent, at his expense, shall
14 participate in an on-going counseling program until such time as the Board releases him from this
15 requirement and only upon the recommendation of the counselor. Written progress reports from
16 the counselor will be required at various intervals.

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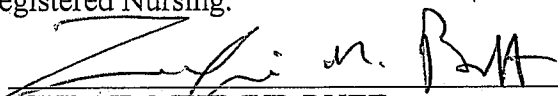
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1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Mario L. Andrews. I understand the stipulation and the effect it
4 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Registered Nursing.

7 DATED: 3/12/11


8 ZUBAIR MEHMUD BUTT
Respondent

9
10 I have read and fully discussed with Respondent Zubair Mehmud Butt the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 3/12/11


14 MARIO L. ANDREWS
Attorney for Respondent


15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
19 Affairs.

20 ^{March 18}
Dated: ~~February~~ 2011

Respectfully submitted,

22 KAMALA D. HARRIS
Attorney General of California
23 FRANK H. PACOE
Supervising Deputy Attorney General

24 
25 MICHAEL B. FRANKLIN
26 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2001-527

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 MICHAEL B. FRANKLIN
Deputy Attorney General
4 State Bar No. 136524
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5622
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2011-527*

11 **ZUBAIR MEHMUD BUTT**
12 **2133 Stockton Street, Apt C 207**
13 **San Francisco, CA 94133**

A C C U S A T I O N

14 **Registered Nurse License No. RN 566439**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about April 25, 2000, the Board of Registered Nursing issued Registered Nurse
22 License Number RN 566439 to Zubair Mehmud Butt (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on April 30, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license.

7 STATUTORY AND REGULATORY PROVISIONS

8 6. Section 2761 of the Code provides, in pertinent part, that the Board may take
9 disciplinary action against a certified or licensed nurse for any of the following:

10 (a) Unprofessional conduct; and/or

11 (f) Conviction of a felony or of any offense substantially related to the qualifications,
12 functions, and duties of a registered nurse, in which event the record of the conviction shall be
13 conclusive evidence thereof.

14 7. California Code of Regulations, title 16, section 1444 provides that a conviction or
15 act shall be considered substantially related to the qualifications, functions or duties of a
16 registered nurse if to a substantial degree it evidences the present or potential unfitness of a
17 registered nurse to practice in a manner consistent with the public health, safety, or welfare. It
18 further provides that substantially related convictions or acts shall include but not be limited to:

19 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in
20 subdivision (d) of Penal Code Section 11160.

21 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
22 Penal Code.

23 9. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
24 revoke a license on the ground that the licensee has been convicted of a crime substantially
25 related to the qualifications, functions, or duties of the nursing profession.

26 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation of the licensing
28 act to pay a sum not to exceed reasonable costs of investigation and enforcement.

1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of Substantially Related Crime)

3 11. Respondent is subject to disciplinary action under section 2761(f) and/or section 490
4 of the Code, by reference to California Code of Regulations, title 16, section 1444, in that on or
5 about July 30, 2010, in a criminal case titled *People v. Zubair M. Butt*, Case No. 02431458 in San
6 Francisco County Superior Court, Respondent was convicted of a crime substantially related to
7 the practice of nursing, a violation of Penal Code section 242 (Battery), a misdemeanor. The
8 circumstances surrounding the conviction are as follows:

9 a. On or about July 10, 2009, Respondent was detained and cited by the San Francisco
10 Police Department after reports from two female witnesses/victims that he had inappropriately
11 touched them. The first incident was reported to have occurred on or about June 22, 2009, when
12 Respondent was reported to have inappropriately touched the buttocks of the first witness/victim.
13 The second incident was reported to have occurred on or about July 10, 2009, when Respondent
14 was reported to have repeatedly made contact with the buttocks of the second witness/victim, and
15 to have caused some moisture and/or staining on the back of the second witness/victim's pants.

16 b. On or about August 28, 2009, Respondent was charged by criminal complaint in Case
17 No. 02431458 with violating: (1) Penal Code section 243.4, subdivision (a) (Sexual Battery by
18 Restraint), a misdemeanor, based on the allegation that on or about July 10, 2009 Respondent, for
19 the purpose of sexual arousal, gratification, and/or abuse, touched an intimate part of the victim
20 while she was restrained by Respondent and/or his accomplice; and (2) Penal Code section 243.4,
21 subdivision (e)(1) (Sexual Battery), a misdemeanor, based on the allegation that on or about June
22 22, 2009 Respondent, for the purpose of sexual arousal, gratification, and/or abuse, touched an
23 intimate part of the victim against the will of the victim.

24 c. On or about July 30, 2010, pursuant to a plea agreement and by motion of the District
25 Attorney, a third count was added of violating Penal Code section 242 (Battery), a misdemeanor.
26 Respondent pleaded *nolo contendere* to this third count, and the first two counts were dismissed.
27 Imposition of sentence was suspended in favor of a period of unsupervised probation of three (3)
28 years, on terms and conditions including fines and fees, and a stay-away order for the victim(s).

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